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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To establish a commission to study the war in Afghanistan.

IN THE HOUSE OF REPRESENTATIVES

Mr. KIM of New Jersey introduced the following bill; which was referred to
the Committee on _____

A BILL

To establish a commission to study the war in Afghanistan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Afghanistan War Com-
5 mission Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **APPLICABLE PERIOD.**—The term “applica-
9 ble period” means the period beginning June 1,
10 2001, and ending August 30, 2021.

1 (2) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services of
5 the Senate;

6 (B) the Committee on Foreign Relations of
7 the Senate;

8 (C) the Select Committee on Intelligence of
9 the Senate;

10 (D) the Committee on Appropriations of
11 the Senate;

12 (E) the Committee on Armed Services of
13 the House of Representatives;

14 (F) the Committee on Foreign Affairs of
15 the House of Representatives;

16 (G) the Permanent Select Committee on
17 Intelligence of the House of Representatives;
18 and

19 (H) the Committee on Appropriations of
20 the House of Representatives.

21 (3) INTELLIGENCE COMMUNITY.—The term
22 “intelligence community” has the meaning given
23 that term in section 3(4) of the National Security
24 Act of 1947 (50 U.S.C. 3003(4)).

1 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

2 (a) ESTABLISHMENT.—There is established in the
3 legislative branch an independent commission to be known
4 as the Afghanistan War Commission (in this Act referred
5 to as the “Commission”).

6 (b) MEMBERSHIP.—

7 (1) COMPOSITION.—The Commission shall be
8 composed of 16 members of whom—

9 (A) 1 shall be appointed by the Chairman
10 of the Committee on Armed Services of the
11 Senate;

12 (B) 1 shall be appointed by the ranking
13 member of the Committee on Armed Services of
14 the Senate;

15 (C) 1 shall be appointed by the Chairman
16 of the Committee on Armed Services of the
17 House of Representatives;

18 (D) 1 shall be appointed by the ranking
19 member of the Committee on Armed Services of
20 the House of Representatives;

21 (E) 1 shall be appointed by the Chairman
22 of the Committee on Foreign Relations of the
23 Senate;

24 (F) 1 shall be appointed by the ranking
25 member of the Committee on Foreign Relations
26 of the Senate;

1 (G) 1 shall be appointed by the Chairman
2 of the Committee on Foreign Affairs of the
3 House of Representatives;

4 (H) 1 shall be appointed by the ranking
5 member of the Committee on Foreign Affairs of
6 the House of Representatives;

7 (I) 1 shall be appointed by the Chairman
8 of the Select Committee on Intelligence of the
9 Senate;

10 (J) 1 shall be appointed by the ranking
11 member of the Select Committee on Intelligence
12 of the Senate.

13 (K) 1 shall be appointed by the Chairman
14 of the Permanent Select Committee on Intel-
15 ligence of the House of Representatives;

16 (L) 1 shall be appointed by the ranking
17 member of the Permanent Select Committee on
18 Intelligence of the House of Representatives;

19 (M) 1 shall be appointed by the majority
20 leader of the Senate;

21 (N) 1 shall be appointed by the minority
22 leader of the Senate;

23 (O) 1 shall be appointed by the Speaker of
24 the House of Representatives; and

1 (P) 1 shall be appointed by the Minority
2 Leader of the House of Representatives.

3 (2) QUALIFICATIONS.—It is the sense of Con-
4 gress that each member of the Commission ap-
5 pointed under paragraph (1) should have significant
6 professional experience in national security, such as
7 a position in—

8 (A) the Department of Defense;

9 (B) the Department of State;

10 (C) the intelligence community;

11 (D) the United States Agency for Inter-
12 national Development; or

13 (E) an academic or scholarly institution.

14 (3) PROHIBITIONS.—A member of the Commis-
15 sion appointed under paragraph (1) may not—

16 (A) be a current member of Congress;

17 (B) be a former member of Congress who
18 served in Congress after January 3, 2001;

19 (C) be a current or former registrant
20 under the Foreign Agents Registration Act of
21 1938 (22 U.S.C. 611 et seq.);

22 (D) have previously investigated Afghani-
23 stan policy or the war in Afghanistan through
24 employment in the office of a relevant inspector
25 general;

1 (E) have been the sole owner or had a ma-
2 jority stake in a company that held any United
3 States or coalition defense contract providing
4 goods or services to activities by the United
5 States Government or coalition in Afghanistan
6 during the applicable period; or

7 (F) have served, with direct involvement in
8 actions by the United States Government in Af-
9 ghanistan during the time the relevant official
10 served, as—

11 (i) a cabinet secretary or national se-
12 curity adviser to the President; or

13 (ii) a four-star flag officer, Under
14 Secretary, or more senior official in the
15 Department of Defense or the Department
16 of State.

17 (4) DATE.—

18 (A) IN GENERAL.—The appointments of
19 the members of the Commission shall be made
20 not later than 60 days after the date of enact-
21 ment of this Act.

22 (B) FAILURE TO MAKE APPOINTMENT.—If
23 an appointment under paragraph (1) is not
24 made by the appointment date specified in sub-
25 paragraph (A)—

1 (i) the authority to make such ap-
2 pointment shall expire; and

3 (ii) the number of members of the
4 Commission shall be reduced by the num-
5 ber equal to the number of appointments
6 not made.

7 (c) PERIOD OF APPOINTMENT; VACANCIES.—

8 (1) IN GENERAL.—A member of the Commis-
9 sion shall be appointed for the life of the Commis-
10 sion.

11 (2) VACANCIES.—A vacancy in the Commis-
12 sion—

13 (A) shall not affect the powers of the Com-
14 mission; and

15 (B) shall be filled in the same manner as
16 the original appointment.

17 (d) MEETINGS.—

18 (1) INITIAL MEETING.—Not later than 30 days
19 after the date on which all members of the Commis-
20 sion have been appointed, the Commission shall hold
21 the first meeting of the Commission.

22 (2) FREQUENCY.—The Commission shall meet
23 at the call of the Co-Chairpersons.

1 (3) QUORUM.—A majority of the members of
2 the Commission shall constitute a quorum, but a
3 lesser number of members may hold hearings.

4 (e) CO-CHAIRPERSONS.—The Commission shall se-
5 lect, by a simple majority vote—

6 (1) 1 Co-Chairperson from the members of the
7 Commission appointed by chairpersons of the appro-
8 priate congressional committees; and

9 (2) 1 Co-Chairperson from the members of the
10 Commission appointed by the ranking members of
11 the appropriate congressional committees.

12 **SEC. 4. PURPOSE OF COMMISSION.**

13 The purpose of the Commission is—

14 (1) to examine the key strategic, diplomatic,
15 and operational decisions that pertain to the war in
16 Afghanistan during the relevant period, including
17 decisions, assessments, and events that preceded the
18 war in Afghanistan; and

19 (2) to develop a series of lessons learned and
20 recommendations for the way forward that will in-
21 form future decisions by Congress and policymakers
22 throughout the United States Government.

23 **SEC. 5. DUTIES OF COMMISSION.**

24 (a) STUDY.—

1 (1) IN GENERAL.—The Commission shall con-
2 duct a thorough study of all matters relating to com-
3 bat operations, reconstruction and security force as-
4 sistance activities, intelligence operations, and diplo-
5 matic activities of the United States pertaining to
6 the Afghanistan during the period beginning Sep-
7 tember 1, 1996, and ending August 30, 2021.

8 (2) MATTERS STUDIED.—The matters studied
9 by the Commission shall include—

10 (A) for the time period specified under
11 paragraph (1)—

12 (i) the policy objectives of the United
13 States Government, including—

14 (I) military objectives;

15 (II) diplomatic objectives;

16 (III) development objectives; and

17 (IV) intelligence objectives;

18 (ii) significant decisions made by the
19 United States, including the development
20 of options presented to policymakers;

21 (iii) the efficacy of efforts by the
22 United States Government in meeting the
23 objectives described in subsection (A), in-
24 cluding an analysis of —

25 (I) military efforts;

- 1 (II) diplomatic efforts;
2 (III) development efforts; and
3 (IV) intelligence efforts; and
4 (iv) the efficacy of counterterrorism
5 efforts against al Qaeda, the Islamic State
6 Khorasan Province, and other foreign ter-
7 rorist organizations in degrading the will
8 and capabilities of such organizations—
9 (I) to mount external attacks
10 against the United States mainland or
11 its allies and partners; or
12 (II) to threaten regional stability
13 in Afghanistan and neighboring coun-
14 tries.
15 (B) the efficacy of metrics, measures of ef-
16 fectiveness, and milestones used to assess
17 progress of diplomatic, military, and intelligence
18 efforts;
19 (C) the efficacy of interagency planning
20 and execution process by the United States
21 Government;
22 (D) factors that led to the collapse of the
23 Afghan National Defense Security Forces in
24 2021, including—
25 (i) training;

- 1 (ii) assessment methodologies;
2 (iii) building indigenous forces on
3 western models;
4 (iv) reliance on technology and logis-
5 tics support; and
6 (v) reliance on warfighting enablers
7 provided by the United States;

8 (E) the efficacy of counter-corruption ef-
9 forts to include linkages to diplomatic lines of
10 effort, linkages to foreign and security assist-
11 ance, and assessment methodologies;

12 (F) the efficacy of counter-narcotic efforts
13 to include alternative livelihoods, eradication,
14 interdiction, and education efforts;

15 (G) the role of countries neighboring Af-
16 ghanistan in contributing to the instability of
17 Afghanistan; and

18 (H) varying diplomatic approaches between
19 Presidential administrations.

20 (b) REPORT REQUIRED.—

21 (1) IN GENERAL.—

22 (A) ANNUAL REPORT.—

23 (i) IN GENERAL.—Not later than 1
24 year after the date of the initial meeting of
25 the Commission, and annually thereafter,

1 the Commission shall submit to the appro-
2 priate congressional committees a report
3 describing the progress of the activities of
4 the Commission as of the date of such re-
5 port, including any findings, recommenda-
6 tions, or lessons learned endorsed by the
7 Commission.

8 (ii) ADDENDA.—Any member of the
9 Commission may submit an addendum to a
10 report required under clause (i) setting
11 forth the separate views of such member
12 with respect to any matter considered by
13 the Commission.

14 (iii) BRIEFING.—On the date of the
15 submission of the first annual report, the
16 Commission shall brief Congress.

17 (B) FINAL REPORT.—

18 (i) SUBMISSION.—Not later than 3
19 years after the date of the initial meeting
20 of the Commission, the Commission shall
21 submit to Congress a report that contains
22 a detailed statement of the findings, rec-
23 ommendations, and lessons learned en-
24 dored by the Commission.

1 (ii) ADDENDA.—Any member of the
2 Commission may submit an addendum to
3 the report required under clause (i) setting
4 forth the separate views of such member
5 with respect to any matter considered by
6 the Commission.

7 (iii) EXTENSION.—The Commission
8 may submit the report required under
9 clause (i) at a date that is not more than
10 1 year later than the date specified in such
11 clause if agreed to by the chairperson and
12 ranking member of each of the appropriate
13 congressional committees.

14 (2) FORM.—The report required by subsection
15 (a)(2) shall be submitted and publicly released on a
16 Government website in unclassified form but may
17 contain a classified annex.

18 (3) SUBSEQUENT REPORTS ON DECLASSIFICA-
19 TION.—

20 (A) IN GENERAL.—Not later than 4 years
21 after the date that the report required by para-
22 graph (1)(B) is submitted, each relevant agency
23 of jurisdiction shall submit to the committee of
24 jurisdiction a report on the efforts of such
25 agency to declassify such annex.

1 (B) CONTENTS.—Each report required by
2 subparagraph (A) shall include—

3 (i) a list of the items in the classified
4 annex that the agency is working to declas-
5 sify at the time of the report and an esti-
6 mate of the timeline for declassification of
7 such items;

8 (ii) a broad description of items in the
9 annex that the agency is declining to de-
10 classify at the time of the report; and

11 (iii) any justification for withholding
12 declassification of certain items in the
13 annex and an estimate of the timeline for
14 declassification of such items.

15 **SEC. 6. POWERS OF COMMISSION.**

16 (a) HEARINGS.—The Commission may hold such
17 hearings, take such testimony, and receive such evidence
18 as the Commission considers necessary to carry out its
19 purpose and functions under this Act.

20 (b) ASSISTANCE FROM FEDERAL AGENCIES.—

21 (1) INFORMATION.—

22 (A) IN GENERAL.—The Commission may
23 secure directly from a Federal department or
24 agency such information as the Commission
25 considers necessary to carry out this Act.

1 (B) FURNISHING INFORMATION.—Upon
2 receipt of a written request by the Co-Chair-
3 persons of the Commission, the head of the de-
4 partment or agency shall expeditiously furnish
5 the information to the Commission.

6 (2) SPACE FOR COMMISSION.—Not later than
7 30 days after the date of the enactment of this Act,
8 the Administrator of General Services, in consulta-
9 tion with the Commission, shall identify and make
10 available suitable excess space within the Federal
11 space inventory to house the operations of the Com-
12 mission. If the Administrator of General Services is
13 not able to make such suitable excess space available
14 within such 30-day period, the Commission may
15 lease space to the extent that funds are available for
16 such purpose.

17 (c) POSTAL SERVICES.—The Commission may use
18 the United States mails in the same manner and under
19 the same conditions as other departments and agencies of
20 the Federal Government.

21 (d) GIFTS.—The Commission may accept, use, and
22 dispose of gifts or donations of services, goods, and prop-
23 erty from non-Federal entities for the purposes of aiding
24 and facilitating the work of the Commission. The author-
25 ity in this section does not extend to gifts of money. Gifts

1 accepted under this authority shall be documented, and
2 conflicts of interest or the appearance of conflicts of inter-
3 est shall be avoided. Subject to the authority in this Act,
4 commissioners shall otherwise comply with rules set forth
5 by the Select Committee on Ethics of the Senate and the
6 Committee on Ethics of the House of Representatives gov-
7 erning employees of the Senate and the House of Rep-
8 resentatives.

9 (e) LEGISLATIVE ADVISORY COMMITTEE.—The Com-
10 mission shall operate as a legislative advisory committee
11 and shall not be subject to the provisions of the Federal
12 Advisory Committee Act (Public Law 92–463; 5 U.S.C.
13 App) or section 552b, United States Code (commonly
14 known as the Government in the Sunshine Act).

15 **SEC. 7. COMMISSION PERSONNEL MATTERS.**

16 (a) COMPENSATION OF MEMBERS.—A member of the
17 Commission who is not an officer or employee of the Fed-
18 eral Government shall be compensated at a rate equal to
19 the daily equivalent of the annual rate of basic pay pre-
20 scribed for level IV of the Executive Schedule under sec-
21 tion 5315 of title 5, United States Code, for each day (in-
22 cluding travel time) during which the member is engaged
23 in the performance of the duties of the Commission.

24 (b) TRAVEL EXPENSES.—A member of the Commis-
25 sion shall be allowed travel expenses, including per diem

1 in lieu of subsistence, at rates authorized for employees
2 of agencies under subchapter I of chapter 57 of title 5,
3 United States Code, while away from their homes or reg-
4 ular places of business in the performance of services for
5 the Commission.

6 (c) STAFF.—

7 (1) STATUS AS FEDERAL EMPLOYEES.—Not-
8 withstanding the requirements of section 2105 of
9 title 5, United States Code, including the required
10 supervision under subsection (a)(3) of such section,
11 the members of the commission shall be deemed to
12 be Federal employees.

13 (2) EXECUTIVE DIRECTOR.—The Commission
14 shall appoint and fix the rate of basic pay for an Ex-
15 ecutive Director in accordance with section 3161(d)
16 of title 5, United States Code.

17 (3) PAY.—The Executive Director, with the ap-
18 proval of the Commission, may appoint and fix the
19 rate of basic pay for additional personnel as staff of
20 the Commission in accordance with section 3161(d)
21 of title 5, United States Code.

22 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-
23 eral Government employee may be detailed to the Commis-
24 sion without reimbursement, and such detail shall be with-
25 out interruption or loss of civil service status or privilege.

1 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
2 TENT SERVICES.—The Co-Chairpersons of the Commis-
3 sion may procure temporary and intermittent services
4 under section 3109(b) of title 5, United States Code, at
5 rates for individuals that do not exceed the daily equiva-
6 lent of the annual rate of basic pay prescribed for level
7 V of the Executive Schedule under section 5316 of that
8 title.

9 **SEC. 8. TERMINATION OF COMMISSION.**

10 The Commission shall terminate 90 days after the
11 date on which the Commission submits the report required
12 under section 5(b)(1)(B).

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—Of the funds appropriated to the
15 legislative branch, \$3,000,000 from the Afghanistan Secu-
16 rity Forces Fund may be made available to carry out the
17 activities of the Commission.

18 (b) AVAILABILITY.—Any sums appropriated under
19 the authorization contained in this Act shall remain avail-
20 able, without fiscal year limitation, until the date of the
21 termination of the Commission under section 8.